

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

EMANUEL JUREL DAVIDSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. 2:07-cv-379

CRIM. NO. 2:05-cr-120

JUDGE MARBLEY

MAGISTRATE JUDGE KING

OPINION AND ORDER

On March 17, 2008, the Magistrate Judge issued a *Report and Recommendation* recommending that petitioner's motion to vacate, set aside, or correct sentence under §2255 motion be **GRANTED** on petitioner's claim that he had been denied the effective assistance of counsel due to his attorney's failure to file an appeal, and that final judgment of sentence be **VACATED** and **REINSTATED** so that counsel may be appointed to file a timely appeal on petitioner's behalf. The Magistrate Judge further recommended that the remainder of petitioner's claims be **DISMISSED** as moot, or as prematurely brought pending disposition of petitioner's appeal.

Although the parties were explicitly advised of the right to object to the Magistrate Judge's *Report and Recommendation*, and of the consequences of failing to do so, no objections have been filed.

The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. The §2255 motion is **GRANTED** on petitioner's claim that he was denied the effective assistance of counsel due to his attorney's failure to file a timely appeal. Entry of final judgment of sentence is

hereby **VACATED** and **REINSTATED**. Counsel is to be appointed to file an appeal on petitioner's behalf. The remainder of petitioner's §2255 claims are **DISMISSED** as moot or premature pending disposition of petitioner's appeal.

IT IS SO ORDERED.

s/Algenon L. Marbley
ALGENON L. MARBLEY
United States District Judge